



# Proposed Charter Amendment to Create the East Maui Water Authority Reso 22-199

# 4 State Lease Areas:

- Huelo
- Honomanu
- Keanae
- Nahiku

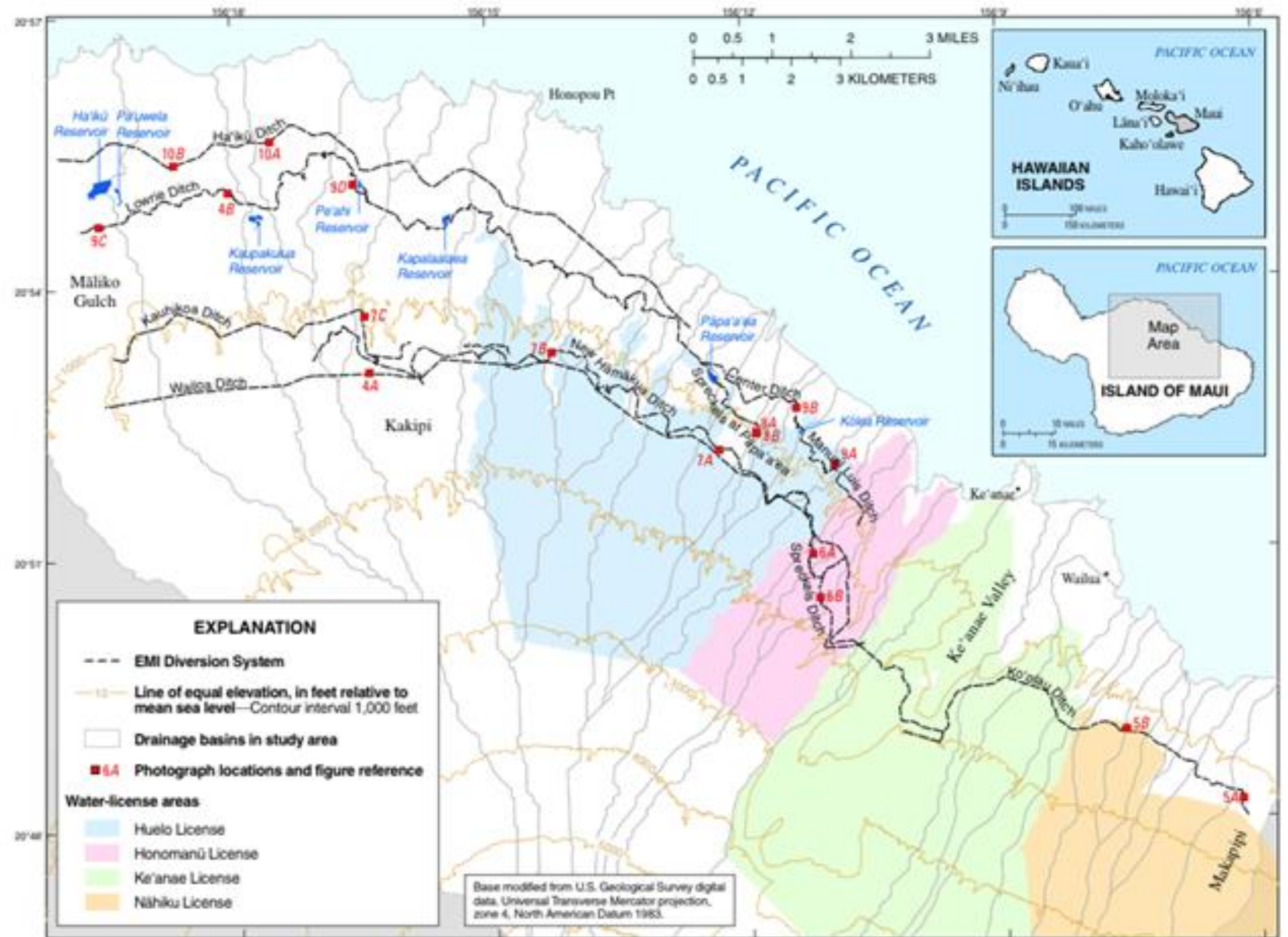


Figure 1. East Maui Irrigation (EMI) diversion system, water-license areas, and photographed locations, east Maui, Hawai'i.

# Whereas Clauses

- Acknowledges that Maui County uses this water source to provide water to county residents, businesses, farmers and ranchers
- Demand for water will continue to grow with climate change decreasing available amounts
- Acknowledges need for long-term efficient, transparent, equitable and community-oriented management of water resources in lease areas

# Whereas Clauses

State Constitution Mandate in Article XI, Section 7

*“ The state has an obligation to protect, control and regulate the use of Hawai’i’s water resources for the benefit of its people. ”*

# Whereas Clauses: Public Trust Doctrine

- Requires management of water resources to achieve the most equitable and beneficial allocation of water resources

## 4 Public Trust uses:

- Domestic, such as drinking water
- Native Hawaiian traditional and cultural practices
- Maintenance of waters in their natural state
- Use by Hawaiian Homes Commission



# Whereas Clauses: 30-year Lease

- DLNR is in process of giving a lease for 30 or more years
- Current applicant is EMI who is owned by A&B and Mahi Pono whose sole investor and member owner is Canadian Pension System Fund Manager
- DLNR approval of EMI lease will give control of our water resources for 30 or more years to a foreign, for-profit investor entity

# Whereas Clauses: BWS TIG Recommendation December 2019

*“Maui County should immediately apply for  
the long-term water lease for the  
Nahiku, Keanae, Honomanu,  
and Huelo License Areas”*

# Whereas Clauses: BWS Recommendation January 2022

*Encourage the County to pursue the feasibility of acquiring the water leases and to contact the DLNR as soon as possible to determine the next steps for doing so.*



# Whereas Clauses: Reso 22-4

## January 7, 2022

- Urged the Mayor to propose an intergovernmental agreement with BLNR to provide a long-term, reliable, and affordable water source
- Directed Chair Lee to write a letter to BLNR Chair Suzanne Case expressing County interest in pursuing long-term leases
- Expressed concern with issuing leases to a private, for-profit entity
- Supporting TIG recommendation

Council Chair  
Alice L. Lee


Vice-Chair  
Keoni N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Gabe Johnson  
Kelly Takaya King  
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**COUNTY COUNCIL**  
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WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)  
January 21, 2022

The Honorable Suzanne D. Case, Chairperson  
Board of Land and Natural Resources  
151 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Chairperson Case:

SUBJECT: **EAST MAUI WATER LEASES** (PAF 22-013)

I write to express the Maui County Council's interest in pursuing the long-term East Maui water leases for the County of Maui.

The County of Maui would appear to be an ideal lessee for the East Maui water leases for many reasons, including those identified by the Temporary Investigative Group ("TIG") formed by the County Board of Water Supply ("BWS") to explore the feasibility of purchasing and maintaining the East Maui Irrigation water delivery system and examine other alternatives for ensuring that the people of Maui County have authority over the delivery of water.

The BWS approved, with amendments, the 85-page TIG report on December 19, 2019. The report is available online at <https://tinyurl.com/TIGreport>.

On the Council's behalf, I respectfully urge you to work with Mayor Michael P. Victorino and his Administration on executing the long-term East Maui water leases for the County of Maui.

Thank you for your consideration. Should you have any questions, please contact me, Legislative Analyst Paige Greco at (808) 270-7660, or Legislative Analyst Kasie Apo Takayama at (808) 270-7665.

Sincerely,

  
ALICE L. LEE, Chair  
Maui County Council

paaf.png:22-013a

cc: Russell Y. Tsuji, Administrator, Land Division  
Department of Land and Natural Resources, State of Hawaii  
Ian Hironaka, Special Projects Coordinator, Land Division  
Department of Land and Natural Resources, State of Hawaii  
The Honorable Michael P. Victorino, Mayor, County of Maui

# Whereas Clauses: Why Water Authority

- Majority of wholesale regional water systems in US managed by water authorities
- Community Board assures community-oriented watershed management
- Management expertise in surface water system operations, public financing, grant acquisition, and watershed management ensures competent, transparent, fiscally and environmentally responsible operations that serve the public interest
- As municipal agency, EMCWA has obligation to uphold legal responsibility to Hawaiian Homes Commission Act and State of Hawaii Constitution
- Able to secure federal and state financing not available to private entities
- Significant cost savings with cost of water can be used for system upgrades to fix leaks producing significant amounts of additional water for watershed, domestic and agricultural use

# Community Board: 11 Members

8 members must:

- have experience in water resource management and watershed restoration in the License Areas of Nāhiku, Keʻanae, Honomanū, and Huelo and
- be residents of the License Areas, with two each from Nāhiku, Keʻanae, Honomanū, and Huelo
- Four appointed by the council, and four appointed by the mayor.

# Community Board

The three remaining members appointed by the council:

- one member with experience in water resource management who is actively engaged in ranching or farming in the Upcountry residency area
- one member who is a representative of the Hawaiian Homes Commission
- one member who is a representative of the owner of water system infrastructure in a License Area
- The director of finance, the director of water supply, the councilmember holding residency area seat for East Maui, and the chair of the council committee with jurisdiction over water issues are non-voting, ex-officio members of the board.

# Board Duties and Functions

1. Review the preliminary assessments, studies, and environmental reports prepared by or for the agency.
2. Approve a long-term watershed management plan, review the plan annually, and provide a written evaluation of each plan goal and implementation status.
3. Provide an annual evaluation of the administrator to the mayor and the council.
4. Provide written comments on the agency's long-term capital improvement plan, annual maintenance plan, annual report, and annual operating budget, including recommendations on water rates and the agency's federal, state, and private funding plan.

# Board Duties and Functions

5. Review the agency's request to the mayor for annual appropriations.
6. Hold at least two annual public community meetings in each Licensing Area with opportunities for written and oral public testimony.

# East Maui Community Water Authority Staffing

Resolution specifies the following, but staff positions beyond administrator could be redefined to “necessary staff”:

- appointed administrator
- public finance specialist
- engineering supervisor and maintenance staff
  - Currently the system has 1 supervisor and a crew of 4 people
- watershed management supervisor
- community engagement specialist



# Administrator Appointment Process

- Appointed by the mayor and approved by the council
- May be removed by the council (not Mayor)
- The salary of the administrator must be set by ordinance and not the salary commission.
  - Very important to attract qualified experienced candidates for the position.

# Administrator Minimum Qualifications

1. Five years of experience in the management of a water system, either in public service or private business or both, including three years of experience in one or more of the following functions:
  - a. Administering operations of a water purveyor, including day-to-day management and control of water systems.
  - b. Preparing and implementing long-range capital improvement plans and up-to-date water use and development plans.
  - c. Preparing an annual operating and capital budget.
2. As part of or in addition to the five years of management experience, three years of responsible budgetary and rate setting experience.

# Administrator Minimum Qualifications Cont...

3. Three years of experience or the equivalent education in watershed management and a willingness to learn native Hawaiian water resource management and ahupua'a connectivity systems.
4. Experience in community engagement and public outreach campaigns.
5. A bachelor's degree from an accredited college or university in engineering, water resources, business administration, public administration, or other relevant discipline, or a combination of education and work experience substantially equivalent to such bachelor's degree.

# Powers, Duties and Functions Step 1

Provide a report within 12 months of Administrator appointment:

- General engineering assessment of the water collection and delivery system located on State land
- Proposed operation, maintenance, and capital improvement plan
- Overview of state, federal, or other grants available for system operation, maintenance, and capital improvements
- Business model including power generation options
- An overview of Department of Land and Natural Resources intergovernmental agreement process, requirements, and stipulations

# Powers, Duties and Functions if Intergovernmental Agreement is approved by the Council

- Once the engineering assessment, business model, overview of funding options, and proposed capital improvement plans are reviewed by Council, then an intergovernmental agreement can be considered.
  - All intergovernmental agreements with financial obligations are approved by Council

If approved, the Water Authority would then:

- Develop and implement a long-term capital improvement and annual maintenance plan
- Develop and implement a watershed management plan in partnership with the regional community
- Obtain state, federal, or private funding for system operation, maintenance, and capital improvements

# Powers, Duties and Functions

- Submit to the mayor the agency's request for annual appropriations for operations and capital improvements.
- Provide an annual report:
  - agency's watershed management plan;
  - operating, maintenance, and long-term capital improvement plans and budgets
  - Summary/status of grants and funding sources applied for or received
  - board comments and recommendations
  - public testimony from community meetings
  - other relevant information